

Court File No: CV-22-00030791-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

AUTOMOTIVE PARTS MANUFACTURERS ASSOCIATION

Plaintiff/
Moving Party

-and-

JIM BOAK, JOANNE CALLAWAY, HILDA FISHER,
LORI INVERARITY, LEO LUCIO, GIL PONTE, MANNBAE SINGH-GALL
DARLENE THOMPSON and JOHN DOE

AFFIDAVIT OF ADAM BLAKE-GALLIPEAU

I, ADAM BLAKE-GALLPEAU, of the Town of Wingham, Province of Ontario, MAKE OATH
AND SAY:

1. I am a lawyer with The Democracy Fund, which is a registered Canadian charity and a civil society under with the Law Society of Ontario.
2. Our charitable mandate includes protecting and preserving constitutional rights in Canada through public education and litigation.
3. As part of our duty to carry out our charitable mandate, we have sent up to four lawyers to the “Freedom Convoy” protests which have been taking place throughout Ontario, including those in the cities of Ottawa, Toronto, and Windsor. The purpose of attending the aforesaid protests is to provide legal information and summary legal advice to persons about their rights under the *Charter* and the limitations to those rights.

4. In addition to providing legal information and summary advice, we have committed to representing individuals who are charged with municipal, provincial and criminal offense where there is a viable *Charter* defence. To date we have committed to defending against 43 municipal/provincial offences and 3 criminal offences. We anticipate many more retainers in the upcoming weeks.
5. We do not receive any government funding but rather our organization relies on financial contributions from donors. Due to time constraints in preparing these materials, I do not currently have information on the number of donors that have made contributions to The Democracy Fund since it was incorporated in 2019, but I do know the donations are multiple and sufficient to pay salaries of three full time lawyers as well as two officers and support staff which is indicative of broad support for the organization.

OBSERVATIONS ABOUT THE PROTESTORS

6. The protest I observed in Ottawa was the largest protest I have witnessed in my lifetime. While in Ottawa, I met hundreds of people from all of provinces and backgrounds, including anglophones, francophones, indigenous and minority backgrounds. Without exception, all of the protestors were peaceful and united in their opposition to government restrictions on the ordinary freedoms Canadian's enjoy. Such restrictions include lockdowns, school closures, vaccine mandates, mask mandates, and curfews.

7. All the protestors I have met strongly feel that their freedoms are being restricted and that their voices are not being heard by decision makers. They are concerned about the erosion of their *Charter* rights and they are concerned that decisions are being made outside of the Parliament and the Legislatures because of emergencies powers invoked in response to the Covid-19 pandemic.
8. My observations from speaking to protestors in the City of Windsor is that they are united in their concerns with the protestors in Ottawa.

NEW CONSIDERATIONS

9. I understand from reviewing the CBC this morning that one lane on the Ambassador Bridge has been cleared by protestors. Moreover, I have personally attended at the secondary entrance to the bridge on Wyandotte Street earlier this morning and observed that it is only impeded by two or three motor vehicles.

LEGAL TEST FOR INTERVENOR STATUS

10. The factors to be considered in granting intervenor status were stated in *Peel v. Great Atlantic & Pacific Co. of Canada*:

[T]he matters to be considered are the nature of the case, the issues which and the likelihood of the Applicant being able to make a useful contribution to the resolution of the appeal without causing injustice to immediate parties.¹

11. More recently, the Ontario Court of Appeal outlined the principles to be considered when the intervention involves *Charter* issues:

*Where the intervention is in a Charter case, usually at least on of three criteria is met by the intervenor: it has a real, substantial and identifiable interest in the subject matter of the proceedings; it has an important perspective distinct from the parties or it is a well-recognized group with a special expertise and a broadly identifiable membership base.*²

NATURE OF THE CASE & ISSUES IN DISPUTE

12. The moving party is a commercial organization which seeks a broad injunction restraining any person from impeding or blocking access to and from the Ambassador Bridge. This injunction, which is brought by the moving party for financial reasons, will engage the defendant's *Charter* rights to freedom of expression and freedom of peaceful assembly. Given the magnitude of the protest and the *Charter* rights at stake, I believe the court should welcome assistance of argument from different segments of the community.

¹ *Peel (Regional Municipality) v. Great Atlantic & Pacific Co. of Canada* (1990), 74 O.R. (2d) 164 at p. 167 (C.A) **Attached as Exhibit A.**

² *Bedford v. Canada (Attorney General)* 2009 ONCA 669 at para 2. **Attached as Exhibit B**

13. The Democracy Fund has a real, substantial and identifiable interest in the subject matter of this litigation as we have been one of the only civil liberty organizations on the ground in Ontario in relation to these protests. To the best of my knowledge, no other civil liberty organizations have applied to the court for intervenor status in this matter.
14. If granted status as an intervenor, The Democracy Fund will provide an important perspective to the court which is different from the perspective of the moving party, which is motivated by economic interests.
15. While The Democracy Fund is a relatively new civil liberties organization, it has a support from Canadians across the country who have funded its existence for almost three years. Its lawyers focus exclusively on *Charter* issues. If we are granted intervenor status, the lawyers who make submissions to the court will be the lawyers at our organization with the most experience with interventions and injunctions. They understand the need for a focused and limited argument, and the need to avoid undue delay and prejudice to the proceeding.
16. If granted intervenor status, the Democracy Fund intends to make submissions on whether the Applicant has shown that it has a strong *prima facie* case and whether the balance of convenience favours the applicant. With respect to the latter, The Democracy Fund will make brief submissions on competing rights under the *Charter* as well as the requirement that the court consider the enforceability of the injunction to impact the rule of law. See *CNR v. Plain*, 2012 ONSC 7356 para. 40.

17. I make this affidavit in support of the within motion and for not other purpose.

Affirmed before me in person at the City of Windsor, Province of Ontario, on February 11, 2022

Alan Honner

Alan Honner
Barrister & Solicitor

Adam Blake Gallipeau

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Barrister & Solicitor